

Message Text

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ACTION EA-12

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FM AMEMBASSY MANILA
TO SECSTATE WASHDC 4137

C O N F I D E N T I A L SECTION 01 OF 02 MANILA 19867

E.O. 11652: GDS
TAGS: SHUM, RP
SUBJECT: SUPREME COURT SUPPORTS SENATOR SALONGA'S RIGHT
- TO TRAVEL

REF: MANILA 13284

1. SUMMARY: FORMER SENATOR AND OPPOSITION LEADER SALONGA OBTAINED HIS TRAVEL CLEARANCE AND LEFT NOV. 4 TO VISIT THE US AFTER TAKING HIS EARLIER DENIAL TO THE SUPREME COURT. FIVE JUSTICES, INCLUDING SOME STANCH REGIME SUPPORTERS, ISSUED STRONG STATEMENTS CRITICIZING THE GOP'S POSITION AND UPHOLDING SALONGA'S AND OTHERS' "RIGHT TO TRAVEL." THE EMBASSY IS AWARE OF A NUMBER OF RECENT CASES WHERE MODERATE OPPOSITION FIGURES HAVE HAD PROBLEMS OBTAINING CLEARANCE FOR FOREIGN TRAVEL. THE JUSTICES' OPINIONS ON THE SALONGA CASE ARE A WELCOME INDICATION OF THEIR DESIRE TO HOLD THE GOP TO SOME OF ITS PUBLIC PRONOUNCEMENTS ON HUMAN RIGHTS MATTERS. END SUMMARY.

2. FORMER SENATOR JOVITO SALONGA LEFT THE PHILIPPINES NOV. 4 FOR A ONE-MONTH VISIT TO THE UNITED STATES. AS REPORTED REFTEL, HE HAD HAD DIFFICULTY LAST AUGUST GETTING CLEARANCE TO VISIT EUROPE AND THE US BUT SUCCEEDED WHEN
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HE THREATENED TO TAKE HIS CASE TO THE SUPREME COURT. HIS CLEARANCE WAS VALID, HOWEVER, ONLY UNTIL OCT. 6 RATHER THAN THE USUAL SIX MONTHS. HE DID NOT IN FACT VISIT THE US ON THAT TRIP.

3. ON OCT. 5 SALONGA APPLIED FOR ANOTHER CLEARANCE, THIS TIME TO ATTEND A MEETING IN NEW YORK AS A MEMBER OF THE

UNITED BOARD FOR ASIA (AN ORGANIZATION SUPPORTING PROTESTANT UNIVERSITIES IN ASIA). ON OCT. 17 HE WAS NOTIFIED THAT HE HAD BEEN TURNED DOWN. THE FOLLOWING DAY HE FILED A PETITION WITH THE SUPREME COURT AGAINST NATIONAL SECURITY CHIEF MGEN VER AND HIS TRAVEL PROCESSING CENTER. A HEARING WAS SET FOR OCT. 27. NEWSPAPERS OF OCT. 25 QUOTED ACTING SOLICITOR GENERAL VICENTE MENDOZA AS SAYING THERE WAS "NO DISPUTE AT ALL" SINCE GOP AUTHORITIES "ARE GOING TO ISSUE SALONGA THE REQUIRED TRAVEL CERTIFICATE" AND "HAD BEEN WAITING FOR THE FORMER SENATOR TO SHOW UP AT THE OFFICE." SALONGA INSISTED, HOWEVER, THAT HIS CASE GO FORWARD TO THE SUPREME COURT. HE FILED A SECOND "MANIFESTATION" ASKING THE COURT TO RULE "THAT UNDER THE CIRCUMSTANCES MENTIONED IN THE PETITION, PETITIONER IS ENTITLED TO TRAVEL ABROAD, AND THAT IT IS IN RECOGNITION OF THIS RIGHT THAT RESPONDENTS HAVE ISSUED HIS CERTIFICATE OF ELIGIBILITY TO TRAVEL," I.E., THAT THE GOP RECOGNIZED HIS RIGHT TO TRAVEL.

4. THE COURT AS A BODY DISMISSED SALONGA'S CASE AS "HAVING BECOME MOOT AND ACADEMIC," BUT FIVE JUSTICES FILED RATHER REMARKABLE OPINIONS. JUSTICE TEEHANKEE OBLIGINGLY NOTED THAT "THE ISSUANCE OF THE TRAVEL CERTIFICATE NECESSARILY IS A RECOGNITION OF PETITIONER'S RIGHT TO TRAVEL UNDER THE PRESENT CIRCUMSTANCES." JUSTICE FERNANDO, WHO IS USUALLY REGARDED AS A FIRM GOVERNMENT SUPPORTER, CONFIDENTIAL

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ADDED: "THIS IS HOW I WOULD VIEW THE MATTER NOT ONLY WHERE PETITIONER IS CONCERNED BUT IN ALL OTHER SIMILAR CASES. RESPONDENT TRAVEL PROCESSING CENTER SHOULD DISCHARGE ITS FUNCTION CONFORMABLY TO THE MANDATE OF THE UNIVERSAL DECLARATION OF HUMAN RIGHTS ON THE RIGHT TO TRAVEL." HE ALSO CITED A RECENT SPEECH BY PRESIDENT MARCOS WHICH "MADE REFERENCE TO MARTIAL LAW BEING INSTITUTED IN ACCORDANCE WITH LAW AND THAT THE CONSTITUTION HAD BEEN APPLIED IN APPROPRIATE CASES. AS AN AGENCY OF THE EXECUTIVE BRANCH, THEREFORE, THE TRAVEL PROCESSING CENTER SHOULD EVER BE ON ITS GUARD, LEST THE IMPRESSION BE CREATED THAT SUCH DECLARATIONS AMOUNT, TO PARAPHRASE JUSTICE JACKSON, TO NO MORE THAN MUNIFICENT BEQUESTS IN A PAUPER'S WILL." JUSTICES MUNOZ-PALMA, SANTOS AND FERNANDEZ ASSOCIATED THEMSELVES WITH FERNANDO'S VIEW. TWO MANILA NEWSPAPERS REPORTED THE DECISION, CITING TEEHANKEE AND FERNANDEZ' OPINIONS.

5. COMMENT: SALONGA TOLD EMBOFFS NOV. 3 HE BELIEVES THAT HIS APPLICATION WAS ORIGINALLY DENIED BECAUSE HE WAS GOING SPECIFICALLY TO THE US AND THAT IT WAS LATER GRANTED ONLY BECAUSE HE TOOK IT TO THE SUPREME COURT.

EMBASSY IS AWARE OF TWO OTHER RECENT CASES WHERE MODERATE
OPPOSITION FIGURES HAVE HAD PROBLEMS GETTING CLEARANCE TO
TRAVEL TO THE U.S.: U.P. LAW PROFESSORS SALVADOR P.
LOPEZ AND HAYDEE YORAC WERE DELAYED BUT EVENTUALLY GOT
THEIR CLEARANCE. ANOTHER CASE IS THAT OF SALVADOR ROXAS-
GONZALES, A WELL KNOWN MATHEMATICS/PHYSICS PROFESSOR AT
DE LA SALLE UNIVERSITY AND AUTHOR OF A NUMBER OF SCHOLARLY
ARTICLES ON MARTIAL LAW AND HUMAN RIGHTS WHO WAS DENIED
TRAVEL CLEARANCE ON NOV. 3 FOR A PROPOSED VISIT TO
JAPAN. APPARENTLY THE GOP IS INCLINED TO DENY CLEARANCE

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FM AMEMBASSY MANILA

TO SECSTATE WASHDC 4138

C O N F I D E N T I A L SECTION 02 OF 02 MANILA 19867

TO ANYONE WITH A DOSSIER (NOTABLY THOSE WHO HAVE BEEN
PUBLICLY CRITICAL OF THE REGIME), BUT IT DOES RELENT IF
ENOUGH PRESSURE IS BROUGHT TO BEAR. THE SUPREME COURT
JUSTICES' VOLUNTEERED OPINIONS SUPPORTING SALONGA ARE A
WELCOME INDICATION OF THEIR DESIRE TO HOLD THE GOP TO ITS
PUBLIC PRONOUNCEMENTS ON SOME ASPECTS OF HUMAN RIGHTS.
MURPHY

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